

Agenda

CEFLI Compliance & Ethics Committee Meeting
Thursday, November 12, 2020
2 PM EDT/1 PM CDT/12 Noon MDT/11 AM PDT
Dial In: (800) 239-9838
Passcode: 5690858

- I. Welcome and Introduction. Donald J. Walters**
 - A. Antitrust Statement.
- II. Approval of Minutes – October 14, 2020 Meeting. The Committee**
- III. Issues for Review. The Committee**
 - A. Coronavirus (COVID-19).

CEFLI's COVID-19 Networking Forum continues to meet on a regular basis and has agreed to meet monthly over the weeks ahead.

The next meeting of CEFLI's COVID-19 Networking Forum is scheduled to take place later today, Thursday, November 12 at 3 PM EDT/2 PM CDT/1 PM MDT/12 Noon PDT. Please contact Nancy Perez (NancyPerez@cefli.org) if you or your colleagues would like to be added to the COVID-19 Networking Forum.

CEFLI Affiliate Member Wolters Kluwer provides a free daily email that outlines significant COVID-19 related regulatory changes. For those who may be interested, the link to sign up is: http://www.wolterskluwerfs.com/COVID-19-updates.aspx?wkcid=20.04_AM_CS_EN_WKFS_RCM

Additionally, CEFLI Affiliate Member Locke Lord provides a complimentary COVID-19 subscription option covering a variety of legal aspects (not just insurance-related impacts). The link to sign up is: <https://www.lockelord.com/newsandevents/subscribe> Locke Lord also maintains a comprehensive COVID-19 Resource Center, which is linked here: <https://www.lockelord.com/covid19resourcecenter>

The Committee will be asked to discuss any operational compliance challenges associated with issues arising out of the COVID-19 pandemic. Also, the Committee will be asked to discuss whether their companies have announced plans regarding “return to work” strategies over the weeks and months ahead.

B. OFAC Checks.

The Office of Financial Assets Control (OFAC) requires financial institutions to conduct “checks” against OFAC’s lists of Specially Designated Nationals (SDN) and other blocked persons.

Recognizing that company practices may differ in this area, questions have been submitted for comment to the Committee concerning the following issues associated with conducting these types of “checks” required by OFAC including:

- *When does your company conduct its OFAC “checks?” When an application is received? When the application undergoes underwriting? When the application is approved?*
- *Which individuals are subject to review as part of the OFAC “check?” The insured/annuitant? Owner? Payor? Beneficiaries?*
- *Does your company conduct its OFAC “checks” “in-house” or does your company utilize an outside vendor for this purpose? Any recommendations of possible outside vendor firms to perform this function?*

The Committee will be asked to discuss their practices with respect to conducting “checks” of OFAC’s SDN and other blocked persons lists.

C. Politically Exposed Persons.

The Office of the Comptroller of the Currency (OCC) recently issued Bulletin 2020 – 77 (the “Bulletin”) a multiagency Joint Statement on Bank Secrecy Act due diligence requirements for customers who may be considered Politically Exposed Persons (PEPs). (See copy attached.)

The Bulletin notes that, although Bank Secrecy Act and anti-money-laundering regulations do not define PEPs, PEPs are commonly identified as:

“... foreign individuals who are or have been entrusted with a prominent public function, as well as their immediate family members and close associates. By virtue of this public position or relationship, these individuals may present a higher risk that their funds may be the proceeds of corruption or other illicit activity.”

Life insurance companies may adopt appropriate risk-based procedures for identifying PEPs.

Accordingly, questions have been presented for consideration by the Committee concerning practices to identify PEPs as part of life insurance company operations.

Specifically:

- *Has your company instituted practices to identify PEPs as part of its new business process?*
- *Has your company instituted practices to identify PEPs with respect to existing policy/contract owners?*
- *What factors may be considered when analyzing the potential risk posed by a PEP?*
- *Do policies/contracts involving PEPs receive heightened review or monitoring?*

The Committee will be asked to discuss their company's practices, if any, with respect to identifying Politically Exposed Persons (who may present a higher risk that their funds may be the proceeds of corruption or other illicit activity) as part of their company's operations.

D. Virtual Meetings - Producer and Customer - COVID-19 Environment.

The nature of sales activities for many companies have changed in the COVID-19 environment. Increasingly, producers are meeting with prospective customers and current customers virtually (rather than in-person).

However, these new practices raise potential compliance concerns. Specifically, to the extent that producers and customers are meeting virtually:

- *What steps can companies take to verify that a virtual meeting took place between a producer and a customer?*
- *To the extent these verification procedures are in place, are they applied in all cases or only selectively (e.g., when the amount of coverage applied for exceeds a certain threshold)?*

The Committee will be asked to discuss their practices to confirm that virtual meetings between producers and customers actually took place in a virtual COVID-19 environment.

E. Date of Birth (DOB) Changes.

From time to time, life insurance companies receive requests from policy/contract holders to change a date of birth (DOB). In some cases, a DOB change may result in a change in age.

Accordingly, questions have arisen with respect to company practices in instances in which a DOB change results in a change in age.

If a DOB change requires a change in age (and the correct age is within the issue ages allowed on the policy), does your company:

- *Ask for remittance from the client (or a refund, if applicable) at the time the error is discovered?;*
- *Indicate the claim should be adjusted at the time of the death claim?; Or*
- *Utilize some other process?*

The Committee will be asked to discuss their company's practices with respect to the handling of date of birth changes.

F. Adoptions of the Revised NAIC Suitability in Annuity Transactions Model Regulation.

CEFLI continues to monitor developments related to possible adoptions of the revised NAIC Suitability in Annuity Transactions Model Regulation in various states.

During our recent meetings, the Committee identified activity to adopt the revised version of the Model Regulation in the following states: Arkansas, Alabama, Idaho, Kentucky, Michigan, Nevada, Ohio, Maryland and Wisconsin. Arizona and Iowa were two leading states to be early adopters of the revised version of the NAIC Suitability in Annuity Transactions Model Regulation.

We also learned recently that Rhode Island has adopted their version of the Model Regulation. [Rhode Island Code Section 230-RICR-20-25-1](#).

It is anticipated that other states will be introducing similar legislation/regulations over the next several months.

The Committee will be asked to discuss any updated developments with respect to plans by states to introduce legislation/regulations to adopt the revised NAIC Suitability in Annuity Transactions Model Regulation.

IV. Reporting Items.

CEFLI Staff.

A. Massachusetts Sales Contest Sweep.

In a letter dated October 14, the Massachusetts Securities Division requested information from several broker-dealers as part of a “sweep” of broker-dealers sales contests, bonuses and other incentive programs. (See redacted copy attached.)

The inquiry required the submission of information to identify all contests, sales incentives, incentive programs, bonus programs or other cash or non-cash rewards, prizes, incentives, bonuses or compensation between January 1, 2019 and August 31, 2020. This time period is designed to capture information regarding practices before and after the September 1, 2020 enforcement date of the Massachusetts fiduciary rule.

The letter required a complete response by October 28, 2020.

CEFLI will continue to monitor any regulatory actions that may arise in light of the information collected as part of the “sweep” of sales contests and other incentive programs by the Massachusetts Securities Division.

B. SEC Regulation Best Interest and Form CRS Roundtable - October 26.

The SEC recently conducted a Roundtable to review initial findings as a result of examination activities designed to determine firm compliance with Regulation Best Interest and Form CRS. (See summary attached.) The Roundtable included representatives from FINRA and SEC staff in their discussions.

CEFLI Staff will provide a brief report concerning the highlights of the SEC Roundtable.

C. SEC Plans to Hire More Examiners Next Year to Monitor Compliance with Regulation Best Interest and Form CRS.

In recent public remarks, SEC Chairman Jay Clayton indicated that the SEC plans to hire more examiners next year to monitor compliance with Regulation Best Interest and Form CRS.

The growing number of investment advisor and broker-dealer firms subject to regulation by the SEC continues to grow in a manner that outpaces the resources of SEC’s Office of Compliance Inspections and Examinations staff.

D. SEC Risk Alert - Assessment of Compliance and Supervisory Practices at Investment Advisor Geographically Dispersed Branch Offices.

The SEC’s Office of Compliance Inspections and Examinations recently issued a Risk Alert as part of its Multi-Branch Initiative review to assess compliance and supervisory practices at branch offices of investment advisers. (See copy attached.)

The Risk Alert identified several concerns including lack of implementation of policies and procedures taking place within geographically dispersed branch

offices and lack of appropriate supervision and oversight from home office locations.

E. FINRA Regulatory Notice 20-38 - Limitations on Registered Persons Becoming a Beneficiary, Executor or Trustee of a Customer.

FINRA recently released Regulatory Notice 20-38 which announced FINRA's adoption of a new rule (FINRA Rule 3241) to limit any registered person from being named a beneficiary, executor or trustee, or to have a power of attorney or similar position of trust for a customer. (See copy attached.)

The new rule requires a firm to review and approve or disapprove the registered person's request. The rule does not apply to members of the registered person's "immediate family."

F. Election Results – State Insurance Commissioners.

The results of the recent elections confirmed that the ongoing role of several incumbent state insurance commissioners and elected one new insurance commissioner.

The following incumbent state insurance commissioners were re-elected:

- Delaware - Trinidad Navarro;
- North Carolina - Mike Causey;
- North Dakota - Jon Godfread; and
- Washington - Mike Kreidler.

For states in which the governor appoints the insurance commissioner including Indiana, Missouri, New Hampshire, Utah, Vermont and West Virginia, there were no changes in the political party of the current occupants of the governors' offices. Therefore, it is assumed that state insurance commissioners in these states will remain in their current roles.

V. CEFLI Activities.

A. Compliance Fundamentals Training Conference - November 19 and 20.

Registration for CEFLI's 2020 Compliance Fundamentals Training Conference is open! The 2020 Compliance Fundamentals Training Conference is scheduled to take place virtually next week on November 19 and 20. Registration is available free of charge to all CEFLI member company representatives.

The Compliance Fundamentals Training Conference is designed for individuals who are new to the life insurance industry or new to the compliance function within a life insurance company.

Additional information concerning the 2020 Compliance Fundamentals Training Conference is available via CEFLI's website [here](#).

- B. Joint Webinar - CEFLI Affiliate Member Maynard Cooper & Gale - Attorney-Client Privilege - Wednesday, October 28.

CEFLI recently conducted a Joint Webinar with CEFLI Affiliate Member law firm Maynard Cooper & Gale to discuss the application of Attorney-Client Privilege within life insurance companies.

The materials developed for purposes of this session explored the legal principles underlying the application of attorney-client privilege issues within organizations.

Copies of the slides and audio from this presentation are available for reference purposes on the CEFLI website.

Our thanks to CEFLI Affiliate Member law firm Maynard Cooper & Gale for sharing their expertise on this important subject matter.

- C. Joint Webinar - CEFLI Affiliate Member Locke Lord - The Future of Market Regulation - Post COVID-19 Environment - Wednesday, November 18 – 1 PM EST.

CEFLI is pleased to announce an upcoming Joint Webinar with CEFLI Affiliate Member Locke Lord to explore The Future of Market Regulation in a Post COVID-19 Environment. Michael Rohan, former Deputy Director of Market Regulation for the Illinois Department of Insurance and now Of Counsel in the Insurance Regulatory and Transactional Group at Locke Lord will serve as our faculty member for the webinar.

The Joint Webinar scheduled to take place next week on Wednesday, November 18 at 1 PM EST.

We hope you will be able to join us!

- D. Compliance Leadership Development Forum - Wednesday, December 3 - 2 PM-3:30 PM EST.

CEFLI will be conducting the first meeting of its Compliance Leadership Development Forum on Wednesday, December 3 at 2 PM-3:30 PM EST. The

Compliance Leadership Development Forum has been convened to allow aspiring compliance leaders in our industry to meet virtually in four separate sessions over the course of the next 12 months to explore the essential attributes necessary to be effective as a compliance leader in the life insurance industry.

A communication was delivered to all member companies recently to allow Chief Compliance Officers to identify a limited number of individuals from each company to participate in the Compliance Leadership Development Forum.

Please contact Mallory Hart (MalloryHart@cefli.org) on CEFLI's staff for more information.

VI. Next Meeting.

The next meeting of the Committee is scheduled to take place:

Wednesday, December 16, 2020 - 2 PM EST/1 PM CST/12 Noon MST/11 AM PST

Please mark your calendar and plan to join us!

VII. Other Business.

The Committee will be asked to identify and discuss any other business to be brought before the Committee.